IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT APPEAL NO : 767 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/03/2004 in WP NO : 17293 OF 2003 on the file of the High Court.)

Between:

1 T.Narasimham S/o late T.Srinivasan
aged 54 years, R/o.Chennai, Tamail Nadu
2 T. Rangaswamy S/o Late T.Srinivasan
aged 43 years,Gangundra Mandapam Street,
Tirupathi, Chittoor Dist
3 T.Seshadri S/o late T.Srinivasan, aged 41 years,
Gangundra Mandapam Street,
Tirupathi, Chittoor Dist
4 Sundaravalli D/o late T.Srinivasan, aged 51 years,
Gangundra Mandapam Street,
Tirupathi, Chittoor Dist
5 Sujatha D/o Late T.Srinivasan, aged 35 years,
Gangundra Mandapam Street,
Tirupathi, Chittoor Dist

..... APPELLANTS

AND

1. Tirumala Tirupati Devasthanams, Tirupati, Chittoor Dist
rep. by its Executive Officer.
2 Tirumala Tirupati Devasthanams, Tirupati, Chittoor Dist.
rep. by its Estate Officer.
3 Smt. Jhansi Rani, Estate Officer,
Tirumala Tirupati Devasthanams, Tirupati, Chittoor Dist

.....RESPONDENTS

For the Appellant:MR.P.VENUGOPAL,Advocate

For the Respondent No.1 & 2: MR.M.ADINARAYANA RAJU, Standing Counsel for T.T.D.

For the Respondent No.3 : None appeared.

The Court made the following Oral Judgment:

(per Sri Devinder Gupta, CJ)

The writ petitioners are in appeal before us against the order of the learned single judge dismissing the appellants' writ petition as devoid of merits, frivolous and vexatious and thereby imposing costs of Rs.10,000/-.

Appellants preferred the writ petition seeking to declare the action of the respondents in illegally demolishing the appellant's property around 930 sq.ft. situated in Door No. 20 and 22 of Survey No. 4167 of G. Car Street, Tirupathi, Chittoor District, which included 82½ sq. ft., alleged to be the subject matter of a Second Appeal, namely, SA Sr. No. 13835 of 2002, pending before this Court.

Learned single judge while taking notice of the stand taken by the 3rd respondent and certain other allegations made in the writ petition proceeded to observe that appellants cannot be said to have any grievance since they have already executed sale deed in favour of a third person and handed over possession, which fact had not been disclosed in the writ petition. While holding that the appellants have suppressed the facts from the Court, the learned single judge dismissed the writ petition as frivolous.

We have heard the learned Counsel for the appellants and the learned counsel for the respondent Devasthanam.

As a matter of fact, what can be seen is that there are certain disputed questions of facts arising for determination in the writ petition. The very first question arising for consideration in the writ petition is as to whether the respondents had or had not illegally and unlawfully demolished any of the appellant's property, part of which was stated to

be the subject matter of a Second Appeal. If there had been any demolition of property, appellants ought to have sought for further directions in the writ petition. In the absence of which, the learned single Judge ought to have left it open to the appellants to work out their remedies in accordance with law in appropriate forum. This Court while exercising its jurisdiction under article 226 of the Constitution of India cannot take evidence on record and decide the disputed questions of facts as also the question of either restoration of the property or payment of compensation thereof in case the demolition was illegal.

The next question as regards suppression of facts by the appellants was based upon certain documents, which were not placed on record, whereas appellants' notion was that none of the properties for which petition had been filed, were sold away. This is also a disputed question of fact. The learned single Judge had not recorded any finding on this aspect also.

Consequently, we allow the appeal and set aside the impugned order of dismissal of writ petition imposing costs. We now proceed to dismiss the appellants' writ petition with liberty reserved to the appellants to work out their remedies in accordance with law by taking appropriate proceedings for redressal of their grievances in this appeal including the grievances made in the writ petition. As and when the appellants initiate such proceedings, the same shall be decided in accordance with law. No costs.

Date: 14th June, 2004.
Pnb

DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Executive Officer, TirumalaTirupati Devasthanams,Tirupati,Chittoor District.
2. The Estate Officer, Tirumala Tirupati Devasthanams, Tirupati, Chittoor District.
3. Two C.D. copies.